



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,916	09/30/2003	Brian F. Fitzpatrick	MRZ 9268.2	2091
321	7590	03/19/2009	EXAMINER	
SENNIGER POWERS LLP 100 NORTH BROADWAY 17TH FLOOR ST LOUIS, MO 63102			ALVAREZ, RAQUEL	
			ART UNIT	PAPER NUMBER
			3688	
			NOTIFICATION DATE	DELIVERY MODE
			03/19/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

Office Action Summary	Application No. 10/675,916	Applicant(s) FITZPATRICK ET AL.	
	Examiner Raquel Alvarez	Art Unit 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/5/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-25 and 27-50 is/are pending in the application.
- 4a) Of the above claim(s) 48-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-25 and 27-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to communication filed on 1/5/2009.
2. Claims 1, 3-25, 27-47 are presented for examination.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-10, 13-25, 27-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Eggleston (6,061,660 hereinafter Eggleston).

With respect to claims 1, 3-9, 16-25, 27-47, Eggleston teaches a system comprising a resource of programs for participation by participants, wherein a participant has one or more participant accounts (i.e. consumers participate and are provided discounts/incentives/offers under the program)(see figure 11).

A platform for providing access to the resource of programs through one or more interfaces via a network, said programs to be operated on the platform having an administrative interface for use by an administrator for interfacing with the platform, the administrative interface for permitting the administrator to access the programs via the platform, select for the client a particular program from the accessed programs wherein the client has one or more client accounts and wherein the selected particular program is operated by the platform, configure the selected, particular program of the client, and

Art Unit: 3688

track the configured program of the client (i.e. sponsoring company selecting the promotion type and tracking the promotions)(see Figures 11 and 23);

a site coordinator interface for use by a site coordinator for interfacing with the platform, the site coordinator interface for permitting the site coordinator to access the particular program via the platform, and support the particular program of the client via the platform, administrate the particular program on the platform, track progress of the particular program on the platform, issue discretionary awards for the particular program from the platform, export data from the particular program on the platform, calculate awards relating to the particular program on the platform, and fulfill orders of the particular program via the platform (see third party fulfillment)(Figure 21);

a participant interface for use by participants of the particular program for interfacing with the platform, the participant interface for permitting each participant of the particular program to access the particular program via the platform, and review information relating to the accessed particular program (employees or customers)(see Figures 17 and 19).

With respect to claim 10, Eggleston further teaches the client or the administrator may consolidate two or more programs in which the participant is enrolled (col. 35, lines 3-20).

With respect to claims 13-15, Eggleston further teaches defining a hierarchical group of participants and is permitting to define a rule applies to a selected

Art Unit: 3688

group of participants wherein the hierarchical and selected groups are different according to geographical location so that the hierarchy is defined by location (Figures 16-18).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11-12, are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggleston.

Claims 11-12, further recite creating 4 distinct websites including a participant website for the participant and selecting from a plurality of templates and artwork. Official Notice is taken that it is old and well known to create websites in order to create an address location on the Internet. Websites having various formats and design. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included creating a participant website for the participant in order to keep the information about the particular program in one single location and customize based on preference.

Response to Arguments

7. Applicant's arguments filed on 1/5/2009 have been fully considered but they are not persuasive.

8. Applicant argues that Eggleston teaches away from a centralized platform because Eggleston discloses that a selected program must be downloaded to the sponsor's own web server, such that each sponsor's program is on its own web server and not a centralized location. The Examiner wants to point out that award programs are centralized because all the individual programs are accessed through the host interface in addition when a prepackaged incentive program is bought all the details of the incentive program is obtained from the host so therefore in the case of prepackaged program there's no need to download the incentive program from the sponsor's own web server because the information can be readily be obtained from the host site (see Figure 10 and related text). Regardless of where the incentive program is downloaded from the host maintains the incentive program on it's own website (centralized) and participants have access to the incentive program through the host.

9. Applicant argues that Eggleston doesn't teach consolidation of client or participant accounts. The Examiner disagrees with Applicant because Eggleston teaches merging or consolidating the award programs "The sponsor is also permitted to design combinations of incentive programs, so that, for example, successful completion of a given incentive program results in eligibility to participate in another incentive program" (quote taken from Eggleston col. 35, lines 5-9).

Art Unit: 3688

10. Applicant argues that Eggleston doesn't teach "a site coordinator interface for use by a site coordinator for interfacing with the platform, the site coordinator interface for permitting the site coordinator to access the particular program via the platform, and support the particular program of the client via the platform, administrate the particular program on the platform, track progress of the particular program on the platform, issue discretionary awards for the particular program from the platform, export data from the particular program on the platform, calculate awards relating to the particular program on the platform, and fulfill orders of the particular program. Examiner disagrees with Applicant because Eggleston teaches third party on Figure 21 performing the above functions.

11. Applicant argues that Eggleston doesn't teach that the site coordinator interface, which is different than the administrative interface, functions to permit the site coordinator (who is different from the administrator) to access, support, administrate, track, issue, export and calculate and fulfill and permit the participant (who is different than the administrator and site coordinator) to access and review. The Examiner disagrees with Applicant because Eggleston teaches the site coordinator (i.e. third party company) accessing, select tracking and fulfillment of the awards (see Figure 21). The administrative interface (i.e. sponsoring company being different than the third party company)(Figure 21) tracking, calculating and consolidating the award programs (col. 35, lines 5-9) and the participants (i.e. employees or customers being different than the third party company and the sponsoring company) accessing, reviewing and obtaining

Art Unit: 3688

the prizes of incentive programs 1-N (see Figures 17-18). Therefore contrary to Applicant's arguments, Eggleston teaches the three separate and distinct entities.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Point of contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James w. Myhre can be reached on (571)272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3688

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/
Primary Examiner, Art Unit 3688

Raquel Alvarez
Primary Examiner
Art Unit 3688

R.A.
3/13/2009